

SETTLEMENT AGREEMENT

This **SETTLEMENT AGREEMENT** is made and entered into by and among the **United States of America** ("United States"), acting through the **United States Department of Justice**, on behalf of the **Department of Housing and Urban Development** ("HUD"), collectively the "Agencies," and **Mr. Frederick Blake** ("Mr. Blake"). Mr. Blake and the Agencies identified above shall be collectively referred to in this Settlement Agreement as the "Parties."

WHEREAS the Interstate Land Sales Full Disclosure Act, 15 U.S.C. §§ 1701 et seq. ("Act"), requires certain developers, as that term is defined in Section 1701(5) of the Act, to file a statement of record with HUD and to furnish a property report to purchasers of lots subject to the Act, prohibits developers from engaging in improper or fraudulent practices in connection with the sale of lots subject to the Act, and provides that failure to provide a property report to a purchaser authorizes the purchaser to rescind the purchase transaction;

WHEREAS Buyers Source Sugarmill, L.L.C., a Virginia limited liability company, Buyers Source Savannah, L.L.C., a Virginia limited liability company, Buyers Source Valley Group, L.L.C., a Virginia limited liability company, and Island Realty, L.L.C. f/k/a Buyers Source Island, L.L.C., an Arkansas limited liability company (collectively referred to as "Buyers Source") are, or were, primarily engaged in the sale of lots, including lots located in subdivisions in Sugarmill Woods, Florida; Savannah Lakes, South Carolina; Apple Valley, Ohio; and Holiday Island, Arkansas (hereinafter the "Subdivisions");

WHEREAS Frederick Blake was a principal of the Buyers Source companies, other than Island Realty, L.L.C.;

WHEREAS the Agencies allege that, in connection with lots located in the Subdivisions, Buyers Source and Mr. Blake were developers under the Act and failed to

file a statement of record with HUD or furnish property reports to certain purchasers of lots located in the Subdivisions, and engaged in a series of improper sales practices in connection with the sale of lots located in the Subdivisions (collectively the "Prohibited Practices");

WHEREAS the Agencies are investigating Buyers Source's Prohibited Practices and have commenced litigation against Mr. Blake, Buyers Source and other parties in connection with the Prohibited Practices;

WHEREAS HUD contends that Mr. Blake violated the Act in connection with the Prohibited Practices by, among other things, selling and offering to sell lots with knowledge that Buyers Source sales agents were selling lots without providing required disclosures and by using various fraudulent practices;

WHEREAS Mr. Blake agrees that the financial obligations set forth in the Agreement are non-dischargeable in bankruptcy pursuant to 11 U.S.C. § 523(a)(7) and that the Agencies retain the right to establish Mr. Blake's liability for fraud to establish the non-dischargeability of the debt under 11 U.S.C. § 523(a)(2), and Mr. Blake retains the right to claim in such a proceeding that he is not liable for fraud;

WHEREAS the Agencies desire to use the monetary penalties in this Agreement to aid injured purchasers;

WHEREAS Mr. Blake denies any wrongdoing in connection with the alleged Prohibited Practices, and denies that he violated the Act;

WHEREAS the Settlement Agreement shall not constitute an admission of wrongdoing, liability, or legal fault on the part of Mr. Blake for any conduct underlying this Settlement Agreement, nor shall it be construed as an admission that any person or entity acted wrongfully, unjustifiably or otherwise;

WHEREAS, to avoid litigation and further expense, and to reach a mutually satisfactory settlement and compromise of the Agencies' allegations against Mr. Blake;

NOW, THEREFORE, in consideration of the mutually negotiated promises, covenants, and obligations in this Settlement Agreement (hereinafter, the "Settlement Agreement" or the "Agreement"), the Parties reach a complete and final settlement as set forth below:

1. This Settlement Agreement is effective on the date of signature of the last signatory to the Settlement Agreement (hereinafter, the "Effective Date").

2. Mr. Blake shall pay \$175,000 to the individual or entity appointed by the Court in Alphonso Jackson v. Buyers Source Sugarmill, L.L.C., Case No. 2:03cv591 (E.D. Va.), for the purpose of collecting and distributing said funds ("the Receiver"). In the event that payments come due prior to the Court's appointment of the Receiver, payments shall be made to Donna J. Hall, Receiver, at Troutman, Sanders, LLP, 222 Central Park Avenue, Suite 2000, Virginia Beach, Virginia 23462. The Agencies agree to grant Mr. Blake a credit of \$7,920.80, reflecting monies that Mr. Blake expended to enable Buyers Source Valley Group, L.L.C., to retain ownership of certain lots. Because of said credit, Mr. Blake's net monetary obligation shall be \$167,079 ("the Net Monetary Obligation"). Notwithstanding any other provision of this Agreement, the Parties agree that the Net Monetary Obligation, together with the obligations set forth in paragraph 9, is and shall be construed as a penalty or forfeiture that is payable to and for the benefit of a governmental unit, and is not compensation for actual pecuniary loss. The Parties further agree that the amount of the penalty reflects the disgorgement of profits from the Prohibited Practices, limited only by the amount of Mr. Blake's profits and his represented ability to pay. In the event that Mr. Blake should declare bankruptcy, Mr. Blake shall not oppose a motion by the United States, the Agencies, and/or the Receiver to lift the stay as to the Net Monetary Obligation or any other obligation set forth in this Agreement. In the event that Mr. Blake should declare bankruptcy within ninety-one (91) days of the deposit of the Initial Payment (defined in

paragraph 3), the deposit of the Second Payment (defined in paragraph 3), or the recording of the Deed of Trust (defined in paragraph 6), whichever is later, Mr. Blake shall send written notice of the declaration of bankruptcy via Federal Express to Samuel C. Kaplan at the Department of Justice, Civil Division, Federal Programs Branch, 20 Massachusetts Ave., N.W., Room 7302, Washington, D.C. 20001, and the Agencies shall have the right to withdraw from the Agreement and pursue their claims in the bankruptcy court by sending written notice to Mr. Blake within 30 days of their receipt of notice concerning the declaration of bankruptcy.

3. On or before June 15, 2004, Mr. Blake shall make an initial payment of \$20,000 to the Receiver (hereinafter, "the Initial Payment"). On or before July 1, 2004, Mr. Blake shall make an additional payment of \$36,000 to the Receiver ("the Second Payment").

4. After the Initial Payment and the Second Payment, Mr. Blake shall satisfy his remaining obligation by paying the Receiver, subject to paragraph 5, (A) \$2,388.99 on the first day of every September, December, March, and June for three years ("the Quarterly Payments") and (B) a payment of outstanding principal and interest on or before June 1, 2007 ("the Balloon Payment"). Mr. Blake shall make the first Quarterly Payment on or before September 1, 2004. If Mr. Blake fails to make the Initial Payment, the Second Payment, or any Quarterly Payment within the required time period, or fails to make the Balloon Payment by June 15, 2007, the Receiver shall have the right to collect interest from Mr. Blake on any late payment and outstanding balance at a rate of ten (10) percent per annum, in addition to retaining any other remedies provided by law, equity, or this Agreement, including the right of the Agencies, the United States, and/or the Receiver to move that Mr. Blake be held in contempt of any order entered by the Court.

5. Any payments made to the Receiver on or before June 1, 2005, in excess of the sum of the Initial Payment, any quarterly payments that come due prior to satisfaction of the Net Monetary Obligation, interest payments required by paragraph 4, and any payments required by paragraphs 6 and 9 ("the Excess Payment"), shall reduce Mr. Blake's Net Monetary Obligation by double the amount of the Excess Payment. Notwithstanding the foregoing, Mr. Blake's Net Monetary Obligation shall not be reduced below \$100,000. Mr. Blake may satisfy the Net Monetary Obligation prior to payment of the first four quarterly payments, by paying the Initial Payment, Second Payment, and (A) \$44,000 if paid prior to the first quarterly payment, (B) one timely quarterly payment and \$41,611.01 if paid prior to the second quarterly payment, (C) two timely quarterly payments and \$39,222.02 if paid prior to the third quarterly payment, and (D) three timely quarterly payments and \$36,833.03 if paid prior to the fourth quarterly payment. In the event that Mr. Blake chooses to accelerate payments or to pay off his remaining obligation ahead of schedule, the Agencies agree that there will be no penalty for so doing. The Excess Payment shall not alter the amount or number of the Quarterly Payments until Mr. Blake's Net Monetary Obligation and any outstanding interest on late payments and outstanding balance are paid in full, at which point no further payments shall be due. Provided that the Net Monetary Obligation is not paid during the first year, the amount by which the Quarterly Payments shall reduce Mr. Blake's Net Monetary Obligation shall be determined by assuming that the Net Monetary Obligation is amortized over a ten-year period at an interest rate of five (5) percent as set forth in the amortization schedule attached as Exhibit A.

6. Mr. Blake's Net Monetary Obligation, together with any interest accrued, shall be secured by a Deed of Trust on properties at 708 Village Green Parkway in Newport News, Virginia; Route 638 Parcel A in Gloucester County, Virginia; 7890 Maryland Ave. in West Point, Virginia in New Kent County; and 109E Pascara in

Newport News, Virginia (collectively "the Properties"). The security instrument establishing said interest ("the Deed of Trust") and the Deed of Trust Note are attached as Exhibit B. The Receiver shall record the Deed of Trust with the relevant jurisdictions in which the Properties are found, and Mr. Blake shall reimburse the Receiver for all applicable fees associated with said recordation within three weeks of receipt of written notice from the Receiver. The Deed of Trust shall be subordinate to deeds of trust on the Properties, currently held by GMAC Mortgage, BB&T Bank, Commonwealth Bank, and BB&T Bank respectively. This Deed of Trust shall not be subordinate to the interest of any other individual or entity. Mr. Blake shall provide an affidavit executed under penalty of perjury within one week of the Effective Date that no other individual or entity holds a security interest in any of the Properties.

7. In the event that Mr. Blake enters into a contract to sell any of the Properties (a "Property"), at the time of Closing, Mr. Blake or the closing agent shall pay the Receiver the proceeds of the sale in excess of the amount necessary to satisfy the first deed of trust for the particular property up to the following amounts set forth in parentheses ("the Estimated Equity"): (A) 708 Village Green Parkway (\$64,900); (B) Route 638 Parcel A (\$20,000); (C) 7890 Maryland Ave. (\$5,000); and (D) 109E Pascara (any amount in excess of the amount necessary to satisfy the first deed of trust on the property). Notwithstanding the foregoing, Mr. Blake shall not be obligated to pay any amount in excess of the sum of the amount remaining of the Net Monetary Obligation at the time of sale, any interest payment due under paragraph 5, and any additional payment required by paragraphs 6 or 9. Where Mr. Blake has entered into a sales contract to sell one of the Properties and desires to obtain a release of the Deed of Trust held by the Receiver on that Property, Mr. Blake shall notify the Receiver in writing of the impending sale and Closing Date at least 21 days prior to the Closing Date established by the sales contract. The Receiver shall release the Deed of Trust

for the Property and provide a deed of partial release within two weeks of receipt of the payment required by this paragraph.

8. To obtain the release of a Deed of Trust on a Property other than pursuant to a sale of that Property, Mr. Blake shall make payments (other than the Initial Payment and Second Payment) that reduce the Net Monetary Obligation by the amount of the Estimated Equity for the Property. If Mr. Blake makes such a payment and requests the release of the Property by written notice to the Receiver, the Receiver shall release the Deed of Trust for the Property and provide a deed of partial release within ninety-one (91) days of the deposit of the payment unless Mr. Blake declares bankruptcy during the period. If Mr. Blake declares bankruptcy during the period, the Receiver may retain the Deed of Trust until it is certain that the Receiver has received payments that are not subject to potential invalidation in a bankruptcy proceeding, in an amount equivalent to the Estimated Equity for the Property. The Receiver shall release the Deed of Trust for all of the Properties, and provide a certificate of satisfaction, within ninety-one (91) days of the deposit of the final payment satisfying the Net Monetary Obligation, unless Mr. Blake declares bankruptcy during that period. If Mr. Blake declares bankruptcy during the period, then the Receiver may retain the Deed of Trust for Properties not otherwise eligible for release under Paragraphs 6 or 7, until it is certain that the Receiver has received payments that are not subject to potential invalidation in a bankruptcy proceeding. Payments that are used to secure the release of a Deed of Trust on one of the Properties may not be credited to secure the release of a Deed of Trust on another of the Properties. If, within the time periods set forth in this paragraph and the previous paragraph, the Receiver does not release the Deed of Trust or does not provide a deed of partial release or a Certificate of Satisfaction, whichever is applicable, the Agencies agree to move the Court to order the Receiver to do so.

9. Mr. Blake represents that he has disclosed to the Agencies in an affidavit, executed under penalty of perjury all assets that he owned, possessed, or controlled as of March 1, 2004, either individually or jointly with any other individual or entity, including his wife. In the event that Mr. Blake has failed to disclose all of the assets that he owned, possessed, or controlled as of March 1, 2004, and in addition to any other obligation set forth in this Agreement, Mr. Blake shall transfer any undisclosed assets, up to an amount not exceeding \$3 million, to the Receiver within two weeks of written notice from the Receiver or the Agencies. In the event that any corporate entity that is a defendant in Alphonso Jackson v. Buyers Source Sugarmill, L.L.C., Case No. 2:03cv591 (E.D. Va.), is required in any proceeding to transfer to Surinder Guliani assets to which the Agencies or the Receiver would otherwise be entitled pursuant to any judgment entered in Jackson v. Buyers Source Sugarmill, L.L.C., Mr. Blake shall, in addition to any other obligation set forth in this Agreement, pay the Agencies the full amount of such recovery up to \$300,000 if Mr. Guliani recovers these assets pursuant to a debt that is jointly held by Mr. Blake.

10. Mr. Blake agrees to cooperate with the Agencies in their ongoing investigation of and ongoing or potential litigation with Buyers Source and any other entity related to this matter. Mr. Blake further agrees to cooperate with the Agencies and the Receiver in their efforts to collect and distribute any sums paid or due under this Agreement, including any investigation meant to determine whether Mr. Blake disclosed all assets that he owned, controlled, or possessed as of March 1, 2004.

11. Mr. Blake shall not violate any provision of the Act or its implementing regulations, either in his individual capacity, through a company owned or controlled by Mr. Blake, or in concert with any other individual or entity. Mr. Blake shall not engage in any transaction, either in his individual capacity, through a company owned or controlled by Mr. Blake, or in concert with any other individual or entity, in which a time-

share interest is used in any fashion as an item of exchange or marketing inducement in the sale of real property.

12. In consideration of Mr. Blake's full settlement of the obligations set forth in this Settlement Agreement, the Agencies hereby waive, release, and remit Mr. Blake from any civil or administrative claim, sanction, or remedy, direct or indirect, that the Agencies have for or relating to any matter underlying this Settlement Agreement or involving Mr. Blake, including the Act and any statute, regulation, or common-law theory creating a cause of action for civil or administrative claims, sanctions, remedies, damages, or penalties. It is further understood that in consideration of Mr. Blake's full settlement of the obligations set forth in the Settlement Agreement, the Agencies will not seek to enforce against Mr. Blake personally any judgment that they may obtain against Buyers Source or any other entity related to this matter.

13. Mr. Blake hereby waives, releases, and remits any and all claims, directly or indirectly, against the Agencies, or any employee of the Agencies, for the actions of the Agencies in pursuing their rights and claims leading to the settlement of this matter.

14. Notwithstanding any other term or condition of this Settlement Agreement, specifically reserved and excluded from the scope and terms of the releases in this Settlement Agreement are any and all claims based on such obligations as are created by this Settlement Agreement.

15. This Settlement Agreement constitutes the complete agreement between the Parties as to the matters addressed herein. This Settlement Agreement may not be amended except by written consent of the Parties.

16. The Parties to this Settlement Agreement shall bear their own attorney's fees and costs, including the preparation and performance of this Settlement Agreement.

17. The Parties represent that this Settlement Agreement is freely and voluntarily entered into without any degree of duress or compulsion whatsoever. No provision of this Settlement Agreement shall be construed against any party by reason of such party having drafted such provision of the Settlement Agreement.

18. This Settlement Agreement is intended for the benefit of the Agencies and Mr. Blake, and by this instrument the Parties do not waive, compromise, or release any claims or causes of action against any other person or entity not expressly released by this Settlement Agreement.

19. Failure by any Party to enforce any provision of this Settlement Agreement shall not be construed as a waiver by such Party of any provision, nor in any way affect the validity of this Settlement Agreement or any part thereof.

20. If any provision of this Settlement Agreement is determined to be invalid or unenforceable for any reason, and subject to paragraphs 2 and 24, then such provisions shall be treated as severed from the remainder of this Settlement Agreement and shall not affect the validity and enforceability of all the other provisions of this Settlement Agreement as long as such severance does not materially change the Parties' rights and obligations.

21. This Settlement Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same agreement.

22. Each person who signs this Settlement Agreement in a representative capacity warrants that his or her execution of this Settlement Agreement is duly authorized, executed, and delivered by and for the individual or entity for which he or she signs.


23. Upon the effective date of this Settlement Agreement, and subject to Paragraphs 2 and 24, the Agencies shall consider all civil and administrative matters

underlying this Settlement Agreement closed, consistent with the faithful performance by the Parties of the obligations imposed herein.

24. Within a reasonable period after the Effective Date, the parties agree to move jointly that the Court enter the Order attached as Exhibit C ("Consent Decree") as part of the proceedings in Alphonso Jackson v. Buyers Source Sugarmill, L.L.C., Civ. No. 2:03cv591 (E.D. Va.). In the event that the Court declines to enter the Consent Decree, or an order requiring Mr. Blake to abide by the terms of this Agreement, or declines to appoint a Receiver, the Agencies reserve the right to designate a different entity to receive all payments and assets due under, and security interests established by, this Agreement, or to withdraw from the Agreement and declare it null and void by providing written notice to Mr. Blake within 30 days of the Court's decision. If the Agencies elect to withdraw from the Agreement for any reason, and if the Receiver does not do so on her own initiative, the Agencies shall move the Court to order the Receiver to return any monies previously paid by Mr. Blake pursuant to this Agreement and to provide Mr. Blake a release of the Deed of Trust on the Properties.

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ON BEHALF OF MR. FREDERICK BLAKE

<p>Dated: <u>May 21, 2009</u></p>	<p>By:  MR. FREDERICK BLAKE 705 Mobjack Place Newport News, Virginia 23606</p>
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ON BEHALF OF THE U.S. DEPARTMENT OF HOUSING
AND URBAN DEVELOPMENT

Dated: _____

6/09/04

By: _____

J. C. Weicher

JOHN C. WEICHER
Assistant Secretary for Housing -
Federal Housing Commissioner
U.S. Department of Housing
and Urban Development
Room 9100
451 Seventh Street, S.W.,
Washington, D.C. 20410